



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

1271701 - R8 SDMS

JUN 22 2012

Ref: 8ENF-RC

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Article No. 7009 3410 0000 2595 4948

Mr. Bill Duffy
Counsel for Atlantic Richfield
Davis, Graham & Stubbs
1550 Seventeenth Street, Suite 500
Denver, CO 80202

Re: First Annual Demand for Reimbursement of Oversight Costs Expended at the Rico-Argentine Site Located Near the Town of Rico in Dolores County, Colorado; Site ID #08-BU; Operable Unit #01-Rico Tunnels Under Unilateral Administrative Order for Removal Action; EPA Docket #CERCLA-08-2011-0005

Dear Mr. Duffy:

The United States Environmental Protection Agency (the EPA) previously contacted Atlantic Richfield Company (AR) regarding activities connected with the Rico-Argentine Site (the Site) located near the Town of Rico in Dolores County, Colorado. A copy of that correspondence is attached. In our letter dated November 18, 2010, the EPA informed AR that it may be liable for money expended by the EPA for response actions at this Site under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), commonly known as the federal Superfund law.

The EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available to the EPA, the EPA has determined that AR may be a potentially responsible party (PRP) under CERCLA for cleanup of the Site or for costs the EPA has incurred in cleaning up the Site.

Explanation of Potential Liability

Under Section 107(a) of CERCLA, PRPs may be held liable for all costs incurred by the EPA (including interest) in responding to any release or threatened release of hazardous substances at the Site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of the Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, the EPA believes that AR may be liable under Section 107(a) of CERCLA with respect to the Site, as current or previous owner and/or operator of the Site. To date, the EPA has taken response actions at the Site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site.

- In April of 2000, the EPA Region 8's Emergency Response Program responded to a request from the Town of Rico to address a breach, due to a lack of maintenance on the berm, of Settling Pond Number 18. The pond containment failed and sediments laden with hazardous substances discharged directly into the Dolores River. The EPA's response action consisted of raising and reinforcing the riverside embankment of Pond 18, adding an additional culvert between Pond 18 and downgradient ponds and installing overflow riprap as a backup drain path.
- On March 17, 2011, the EPA issued a Unilateral Administrative Order for Removal Action #CERCLA-08-2011-005 to AR to perform a Time-Critical Removal Action to remove solids from the settling ponds and design and install a water treatment system to address the discharge from the St. Louis Tunnel. The required removal is expected to provide a long-term solution to the contaminated water discharging from the tunnel.
- The EPA will provide oversight as AR removes pond solids and designs and constructs a water treatment plant that will operate in perpetuity. The State of Colorado will oversee operation and maintenance pursuant to a CDPS permit.

Demand for Reimbursement of Costs

In accordance with Section 104 of CERCLA, the EPA has already taken certain response actions, which are listed above, and incurred certain costs in response to conditions at the Site. The EPA is seeking to recover from AR its response costs and all the interest authorized to be recovered under Section 107(a) of CERCLA. Unilateral Administrative Order for Removal Action, EPA Docket Number CERCLA-08-2011-0005 (UAO), Section XII – Reimbursement of Oversight Costs.

To date, the total response costs incurred by the EPA for the timeframe from the Effective Date of the UAO (3/23/11) through 3/31/12 total \$315,059.88. Under Section 107(a) of CERCLA, the EPA hereby makes a demand for payment from AR for the above amount plus all interest authorized to be recovered under Section 107(a). A summary of these costs is enclosed with this letter.

The EPA is due \$315,059.88 within 30 days of the date of receipt of this accounting. Pursuant to Section XII of the UAO, should payment not be received within the specified timeframe, interest shall begin accruing at the rate of 0.69% per annum from the date of this letter and shall continue to accrue on the unpaid balance until such costs and accrued interest have been paid in full. The interest rate changes October 1 of each fiscal year. Calculation of interest will be based on current interest rates. This demand for payment is solely for recovery of Government oversight costs; any fines and/or civil penalties due, if applicable, will be billed separately.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to AR. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of AR's first contact with the Rico-

Argentine Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

Please send a written response to this cost recovery demand, within thirty (30) days, to:

Carol J. Pokorny, Enf Spec 8ENF-RC
Technical Enforcement Program
US EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

With a copy to:

Martha Walker, CFO 8TMS
Financial Management Program
US EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

If a response from you is not received within thirty (30) days, the EPA will assume that you have declined to reimburse the Superfund for the Site expenditures, and pursuant to CERCLA, the EPA may pursue civil litigation.

Also, please note that, because the EPA has a potential claim against you, you must include the EPA as a creditor if you file for bankruptcy. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

Please give this matter your immediate attention. If you have any questions regarding this letter, please contact Carol Pokorny, Enforcement Specialist at (303) 312-6970. Legal questions should be directed to Amelia Piggott, Enforcement Attorney at (303) 312-6410. Thank you for your prompt attention to this matter.

Sincerely,



Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Programs
Office of Enforcement, Compliance,
and Environmental Justice



Andrea Madigan, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

Enclosures: 11/18/10 Letter (Notice of Potential Liability)

Cost Summary for Costs Incurred 3/23/11 through 3/31/12

cc w/o enc: C. Pokorny, 8ENF-RC
S. Way, 8EPR-ER
A. Piggott, 8ENF-L
M. Walker, 8TMS
Site File

